IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 203 OF 1992

Laxman S. Garade & Anr. ..Appellants

versus

Lahu Prasad Patole & Ors ..Respondents

Mr. T. S. Ingale for the Appellants.

Mr. R.S. Patil for Respondent Nos. 1 to 5.

Mr. D. R. Mahadik i/b. S. R. Singh for Respondent No.9

CORAM : D. G. DESHPANDE,J.

DATE : 28TH MARCH,2005

ORAL ORDER :

1. Heard counsel for the appellants and Respondent - Insurance Company and the claimants.

2. The appellants are the owner of the vehicle. The MACT Sangli in the order dated 15.4.1991 which is impugned order exonerated the insurance company. The accident took place on 30.5.1985. Admittedly on that day the insurance policy was in force, existing and valid. The appellants had purchased vehicle from original opponent No.1 in 1983 but the insurance policy continued to be in the name of the

original opponent No.8 and it was not transferred in the name of the present appellants. Therefore the Tribunal held that there was no privity of contract between the appellants and the insurance company and therefore exonerated the insurance company.

3. The question is whether that finding and conclusion of the Tribunal was correct.

4. Counsel for the appellants relied upon the judgment of the Supreme Court reported in **(2003) 3 Supreme Court Cases 97 Rikhi Ram and Anr. vs. Sukhrania (Smt.) and Ors.** In that case in paragraphs 7 and 8 the Supreme Court has held that the liability of an insurer does not come to an end even if the owner of the vehicle does not give any intimation of transfer to the insurance company. Therefore, applying this analogy, the order of the Tribunal is required to be modified.

5. In view of this judgment of the Supreme Court, there was no serious opposition from the respondent - Insurance company. Hence following order.

ORDER

. Appeal is partly allowed.

. Judgment of the Tribunal is modified. Amount of compensation of Rs.1,11,000/- will be payable by the insurance company as per the order of the Tribunal. No order as to costs of this appeal.

. Claimants who have received Rs.25,000/- from the present appellants will return the amount within six weeks or within two weeks from the receipt of the amount from the insurance company. Insurance company to pay the amount within eight weeks from today.

. Certified copy expedited.

28.03.2005 (D.G. DESHPANDE, J.)

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